

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	
	)	
	)	
Vs.	)	Criminal No. 04-10047 RCL
	)	
LUIS RODRIGUEZ,	)	
A/K/A "One Eyed Luis"	)	
_____	)	

**DEFENDANT'S MOTION FOR INTERVENTION**  
**REGARDING HIS MEDICAL CONDITION**

The seizures and facial pain that the defendant, Luis Rodriguez, has been experiencing since he has been in custody at Plymouth County Correctional Facility have not abated and appear to have increased in frequency and severity over the last several months. Specifically, since his last appearance in this Court on September 7, 2005, Mr. Rodriguez has had three seizures and has experienced debilitating pain and deafness in his left ear. Mr. Rodriguez was taken from Plymouth County Correctional Facility to Jordan Hospital for emergency medical assistance for the seizures on November 19 and December 2, 2005. Despite the frequent seizures and increased level of pain he is not scheduled to be evaluated at Shattuck Hospital until December 14, 2005 by an ear, nose and throat specialist and on January 9, 2006 by a neurologist.

As this Court is aware, Devens evaluated Mr. Rodriguez in late May 2005 and diagnosed his seizures as asthma and prescribed typical asthma medication. Mr. Rodriguez disputes the Devens diagnosis and believes that the seizures are related to the bullet fragments that are lodged in his left eye and face. If the asthma diagnosis were correct the seizures should have ceased. Instead, they seem to have increased in

frequency leading to the conclusion that he must be re-examined at a minimum.

Moreover, despite the severe pain in Mr. Rodriguez's face, PCCF has been unable to make prompt appointments at Shattuck.

Since his last appearance in this Court, counsel for Mr. Rodriguez has contacted the Massachusetts General Hospital, Brigham and Women's Hospital, Beth Israel Hospital and several private physicians to identify a neurologist who would be willing to treat Mr. Rodriguez at PCCF. To date, no doctor has been willing to examine Mr. Rodriguez at PCCF. Thus, counsel has run out of options to seek a more effective diagnosis and treatment for Mr. Rodriguez and requests this Court to intervene pursuant to the authority vested in this Court by 18 USC §3553(a)(2)(D). Under §3553(a)(2)(D), this Court has the authority to order a second medical examination which the Court may rely on in making sentencing decisions. The Court may order a specific doctor or facility to conduct the examination and the cost for such is controlled by the Attorney General's office pursuant to 18 USC §4006(a) and (b).

From Mr. Rodriguez's perspective it is simply cruel to allow him to suffer so much pain without quick intervention and a more reliable diagnosis. By this Motion, Mr. Rodriguez asks this Court to sentence him to time served so that he may seek proper medical treatment in the community. Toward that end, Mr. Rodriguez incorporates herein his Sentencing Memorandum requesting that he be released to Teen Challenge immediately. If this Court does not release Mr. Rodriguez, then he asks this Court to invoke its authority under §3553(a)(2)(D) for a second, effective and more reliable medical diagnosis.

**MR. RODRIGUEZ REQUESTS AN EXPEDITED HEARING AND DECISION.**

LUIS RODRIGUEZ

By his attorney,

/s/ Valerie S. Carter

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DATED: December 5, 2005

CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2005 a true copy was hand delivered to Clerk and ECF Filed, and a copy of the above document was served upon U.S. Attorney of record and Pre-Trial Services via ECF-mailing and hand delivery.

/s/ Valerie S. Carter  
Valerie S. Carter, Esq.